

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION - SIOUX CITY**

PEG BOUAPHAKEO, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Civil No. 5:07-cv-04009-JAJ-TJS
)	
TYSON FOODS, INC.)	

**PLAINTIFFS' SUPPLEMENTAL PETITION FOR
ATTORNEYS' FEES, EXPENSES AND COSTS**

COME the plaintiffs, by and through the undersigned counsel, who pursuant to Rule 54(d), F.R.C.P. and Local Rules of Civil Procedure 54 and 54.1, move this Honorable Court for an award of attorneys' fees and expenses incurred in the prosecution of this case. As grounds, plaintiffs state the following:

1. The parties have agreed to resolve the plaintiffs' claim for attorneys' fees and expenses by the payment of \$4,526,425. The parties' agreement states the following:

10.6. Plaintiffs' Counsel will receive an award of . . . \$4,526,425 in total fees for *Bouaphakeo*

10.7. Plaintiffs' Counsel will receive an award of costs of . . . in \$279,425.15 in total costs for *Bouaphakeo*

Settlement Agreement at p. 18, ¶¶10.6 & 10.7 (Dkt. 370-4).

2. The time worked on behalf of the plaintiff class in this case totals

8,085.4 hours and are itemized in the time itemizations attached hereto. The current and normal hourly rates for litigation similar to this proceeding are also set forth in the attached Declarations and Itemization.

3. The effective hourly rate for such work is \$560 per hour based on the \$4,526,425 fee set forth in the parties' Settlement Agreement.

4. The plaintiffs' effective hourly rate of \$560 is substantially less than the actual hourly rate of the attorneys who contributed the vast majority of the time expended in this case.

5. The 8,085.4 hours spent by plaintiffs' counsel were reasonable for the claims, defenses, work and risk at issue in this matter, the tasks performed and the responsibility undertaken.

6. Hourly rates for cases taken on an at-risk, delayed-payment basis are normally greater than hourly rates for non-contingent representation in which fees are routinely paid without risk or significant delay. Market conditions require that hourly rates for contingent fee litigation take into account the risk of not being paid unless successful and for the delay in payment until the case is favorably concluded.

7. Plaintiffs' adopt their prior Declarations and Itemizations in this case.

8. In addition, the expenses listed in the attached itemizations are reasonable out-of-pocket expenses that are normally passed on to the client and are not absorbed as part of a law firm's overhead. Such expenses were reasonably

necessary in order to successfully prosecute this proceeding.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs move this Honorable Court for an Order requiring the defendant to pay the plaintiffs' attorneys' fees, costs and expenses set forth in the parties' Settlement Agreement.

Respectfully submitted this 28th day of September, 2017.

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CERTIFICATE OF SERVICE

I hereby certify that I have electronically filed the above with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

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and I hereby certify that I have mailed by United States Postal Service, postage prepaid, this document to the following non CM/ECF participants:

None.

On this 28th day of September, 2017.

/s/ Robert L. Wiggins, Jr. _____
Of Counsel